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By JESSICA CRAWFORD

- Daily Leader

Although special prosecutor Razmi Tahirkheli fell short in Seward County District Court regarding the conviction of Seward County Commissioner Stephen “Ike” Eisenhower’s alleged third DUI, the story does not necessarily end there. Tahirkheli announced Thursday the filing of a petition with the Court of Appeals is in the works.

As a result of a March 16 traffic stop, Seward County Commissioner Stephen “Ike” Eisenhower faced a trial by jury after he pleaded not guilty to allegedly driving under the influence of alcohol, transporting an alcoholic beverage in an open container and failure to maintain a single lane during an arraignment hearing in Aug. 2009.

On Dec. 18, the case was dismissed by District Court Judge Clint Peterson. Following Peterson’s viewing of a DVD entered into evidence by defense attorney Nathan McCaffrey, Peterson found the traffic stop was not valid as he stated the traffic lane violation was only “minimal or incidental.”

Tahirkheli has, in fact, filed the petition with the Court of Appeals. He explained the process of how the system works – step-by-step.

“I have already filed the paperwork,” Tahirkheli said. “You do a notice of appeal, and then you have to do what they call a docketing statement and you have to file a brief. Then the other side has to do the same. They don’t have to do a notice, they have to file a reply.”

"It usually takes a few months depending on how quickly everybody gets done," he added. "I plan to get mine done fairly quickly, and then it will be on them when they reply. After the briefs are filed, it is up to the schedule of the Court of Appeals when they take it up."

If either the prosecution or defense is not pleased with the decision of the Court of Appeals, the next step, Tahirkheli said, is the Kansas Supreme Court. However, he added, the Kansas Supreme Court does not necessarily have to hear the case.

"What happens in Kansas is you have the trial court, which we were in, then you have a Court of Appeals, which is the second level," he said. "The Court of Appeals will now hear this case, and then they will decide. Depending if, for example, they rule against me or against the defendant, then the party that thinks they were wronged can ask the Supreme Court to look at the case."

"The Supreme Court has a choice," he explained. "The Supreme Court does not look at every case that is filed, they can decide whether they want to look at it or not, they can deny it if they choose. When you get a denied review it means the Court of Appeals decision is the final decision in the case."

According to Tahirkheli, the Eisenhower case is currently on hold. He did reveal much research was needed in order to actually uncover Eisenhower's preceding convictions.

"I had a hard time finding his prior convictions," Tahirkheli said. "For whatever reason, they don't show up on any driving records, and one of the files is missing from the court."

"The problem with this case is both prior DUIs, which would make this (third) one a felony, I was unable to find," he continued. "I did find them, but if I couldn't have found them before the preliminary hearing, the judge, of course, would not have any evidence to bind him over for a felony. I don't have to have that at the trial, but I have to show that at the prelim. That is the way the law is. Luckily, I was able to find the prior journal entries and was able to do that."

Tahirkheli is unsure as to when, exactly, the Court of Appeals will hear the case against Eisenhower. However, he said, it will happen.

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